

**UNITED STATES DEPARTMENT OF COMMERCE****Patent and Trademark Office**Address: COMMISSIONER OF PATENTS AND TRADEMARKS  
Washington, D.C. 20231

APPLICATION NO.	FILING DATE	NAME OF INVENTOR	T	ATTORNEY DOCKET NO.
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LM61/0908  
 SCHWEGMAN LUNDBERG WOESSNER & KLUTH  
P O BOX 2938  
MINNEAPOLIS MN 55402

EXAMINER

ART UNIT	PAPER NUMBER
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DATE MAILED: 09/06/00

Please find below and/or attached an Office communication concerning this application or proceeding.

**Commissioner of Patents and Trademarks**

**Advisory Action**

Application No.

09/002,584

Applicant(s)

Wugofski

Examiner

Reuben M. Brown

Group Art Unit

2711

**THE PERIOD FOR RESPONSE: [check only a) or b)]**

a)  expires 3 months from the mailing date of the final rejection.

b)  expires either three months from the mailing date of the final rejection, or on the mailing date of this Advisory Action, whichever is later. In no event, however, will the statutory period for the response expire later than six months from the date of the final rejection.

Any extension of time must be obtained by filing a petition under 37 CFR 1.136(a), the proposed response and the appropriate fee. The date on which the response, the petition, and the fee have been filed is the date of the response and also the date for the purposes of determining the period of extension and the corresponding amount of the fee. Any extension fee pursuant to 37 CFR 1.17 will be calculated from the date of the originally set shortened statutory period for response or as set forth in b) above.

Appellant's Brief is due two months from the date of the Notice of Appeal filed on \_\_\_\_\_ (or within any period for response set forth above, whichever is later). See 37 CFR 1.191(d) and 37 CFR 1.192(a).

Applicant's response to the final rejection, filed on Aug 9, 2000 has been considered with the following effect, but is NOT deemed to place the application in condition for allowance:

The proposed amendment(s):

will be entered upon filing of a Notice of Appeal and an Appeal Brief.

will not be entered because:

they raise new issues that would require further consideration and/or search. (See note below).

they raise the issue of new matter. (See note below).

they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal.

they present additional claims without cancelling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Applicant's response has overcome the following rejection(s):  
\_\_\_\_\_  
\_\_\_\_\_

Newly proposed or amended claims \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment cancelling the non-allowable claims.

The affidavit, exhibit or request for reconsideration has been considered but does NOT place the application in condition for allowance because:  
\_\_\_\_\_  
\_\_\_\_\_

The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.

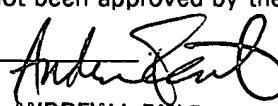
For purposes of Appeal, the status of the claims is as follows (see attached written explanation, if any):

Claims allowed: \_\_\_\_\_

Claims objected to: \_\_\_\_\_

Claims rejected: 1-43 \_\_\_\_\_

The proposed drawing correction filed on \_\_\_\_\_  has  has not been approved by the Examiner.

Note the attached Information Disclosure Statement(s), PTO-1449, Paper No(s). 

Other

ANDREW I. FAILE  
SUPERVISORY PATENT EXAMINER  
GROUP 2700

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## **DETAILED ACTION**

### ***Response to Arguments***

1. Applicant's arguments filed 8/9/00 have been fully considered but they are not persuasive.

Pursuant to applicant's request that examiner supply a reference to back-up the Official Notice taken in the previous Office Action, examiner directs applicant to Ohga (U.S. Pat # 5,465,385). In the previous Office Action, examiner took Official Notice that at the time the invention was made, it was well known in the art to 'automatically' power-on a tuner. To that end, examiner points to Ohga, which is directed to receiving scheduling information at a user CATV terminal device from a broadcast server which is transmitted as in-band data. The received scheduling information is used by the instant CATV terminal device in order turn-on a TV receiver for receiving a particular broadcast program at a predetermined time., (col. 5, lines 5-10). This process operates by the CPU 25 detecting when a present time clock corresponds with the start time of a user desired broadcast, such that, at that instant the CPU 25 'automatically' turns on a TV receiver 3, which reads on "a process... operable for powering-on the tuner circuitry", as recited in claim 1 and similarly recited in the other independent claims. The caching process is disclosed in Young and is combined with Ohga, which also 'automatically' tunes the TV receiver 3, i.e tuner, to the appropriate channel in order to receive the scheduled broadcast.

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Therefore, it would have been obvious for one of ordinary skill in the art at the time the invention was made, to modify Young with the teachings of Ohga, at least for the desirable improvement of ensuring the proper reception of a user desired broadcast program, in the instant that the TV receiver/tuner was turned off, immediately prior to the scheduled start time of the instant desired broadcast program.

In applicant's arguments against Ohga, filed 1/31/00 with paper #3, on page 7 applicant asserts that "storage and subsequent retrieval for viewing or use by a user is neither taught or suggested by Ohga". Examiner points out that such a feature is provided by Young, (col. 19, lines 5-10). Ohga is only cited in order to teach 'automatic' power-on of a TV receiver/tuner at a specific time.

Examiner also directs applicant's to several other references which teach the very well known feature of 'automatically' powering-on a tuner/TV receiver at an appropriate time, and tuning the tuner to the appropriate channel, in order to receive the user requested broadcast program, such as Yoshinobu (col. 24, lines 25-51), Belcher (Abstract; col. 4, line 68) & Campbell (col. 14, lines 52-55).

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***Conclusion***

2. The prior art made of record and not relied upon is considered pertinent to applicant's claims.

A) Belcher, Campbell Teach automatic turn-on of a TV receiver in order to receive emergency broadcast information.

B) Aristides Teaches automatic updates of EPG data for a user's CATV terminal as directed by a server controller, such updates preferably occur during non-peak hours.

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**Any response to this action should be mailed to:**

Commissioner of Patents and Trademarks

Washington, D.C. 20231

**or faxed to:**

(703) 308-6306, (for formal communications intended for entry)

**Or:**

(703) 308-6296 (for informal or draft communications, please label

**"PROPOSED" or "DRAFT"**

*Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive, Arlington, VA, Sixth Floor (Receptionist).*

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Reuben M. Brown whose telephone number is (703) 305-2399. The examiner can normally be reached on Monday thru Friday from 830am to 430pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew Faile, can be reached on (703) 305-4380. The fax phone number for this Group is (703) 308-6306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 305-4700.



ANDREW I. FAILE  
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GROUP 2700